

EMERY CELLI BRINCKERHOFF ABADY WARD & MAAZEL LLP

JONATHAN S. ABADY  
MATTHEW D. BRINCKERHOFF  
ANDREW G. CELLI, JR.  
RICHARD D. EMERY  
DEBRA L. GREENBERGER  
DIANE L. HOUK  
DANIEL J. KORNSTEIN  
JULIA P. KUAN  
HAL R. LIEBERMAN  
ILANN M. MAAZEL  
KATHERINE ROSENFELD  
ZOE SALZMAN  
SAM SHAPIRO  
EARL S. WARD  
O. ANDREW F. WILSON

ATTORNEYS AT LAW  
600 FIFTH AVENUE AT ROCKEFELLER CENTER  
10<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10020  
  
TEL: (212) 763-5000  
FAX: (212) 763-5001  
www.ecbawm.com

MONDAIRE JONES  
VASUDHA TALLA  
  
ERIC ABRAMS  
NICK BOURLAND  
HANNAH BRUDNEY  
DANIEL M. EISENBERG  
ARIADNE M. ELLSWORTH  
SARA LUZ ESTELA  
BIANCA HERLITZ-FERGUSON  
LAURA S. KOKOTAILO  
SONYA LEVITOVA  
HAFSA S. MANSOOR  
SANA MAYAT  
HARVEY PRAGER  
VIVAKE PRASAD  
MAX SELVER  
EMILY K. WANGER  
RACHAEL WYANT  
SYDNEY ZAZZARO

October 24, 2024

*Via ECF*

Hon. Denise L. Cote  
U.S. District Court for the Southern District of New York  
500 Pearl St.  
New York, NY 10007

Re: *Carlo v. City of New York et al.*, No. 24-cv-1818 (DLC)

Dear Judge Cote:

This firm represents Plaintiff Jamayra Carlo, the daughter of decedent Tomas Carlo Camacho and the administrator of his Estate, in the above-captioned matter. We write pursuant to the Court's October 24, 2024 Order to (1) describe the process by which Plaintiff served Defendant Malcolm Squirewell pursuant to CPLR 308(4); and (2) request that the Court order Defendant the City of New York ("the City") to provide Plaintiff with Defendant Squirewell's date of birth and social security number to facilitate an additional effort to locate Defendant Squirewell.

Plaintiff completed substituted service on Defendant Squirewell on August 8, 2024 pursuant to CPLR 308(4) by affixing the summons and complaint to the door of Defendant Squirewell's dwelling place or usual place of abode and mailing the summons and complaint to Defendant Squirewell's last known residence. Plaintiff used substituted service after receiving two addresses for Defendant Squirewell for the City of New York; attempting in-person service at the first address (in Brooklyn, New York) and learning from the current tenant that Defendant Squirewell had moved; and then attempting in-person service at the second address (in Freeport, New York) on July 17, 2024 at approximately 8:09PM; on July 18, 2024 at approximately 9:05AM; on July 19, 2024 at approximately 7:20AM; on July 20, 2024 at approximately 8:03AM; on July 22, 2024 at approximately 9:18PM; and on July 23, 2024 at approximately

EMERY CELLI BRINCKERHOFF ABADY WARD &amp; MAAZEL LLP

Page 2

12:13PM. Plaintiff's process server then affixed the summons and complaint to the door of Freeport address and mailed the summons and complaint by first class mail to both the Freeport and Brooklyn addresses. *See* ECF No. 50 (affidavits of service reflecting substituted "nail and mail" service on Defendant Squirewell). Pursuant to CPLR 308(4), service was complete ten days after Plaintiff filed affidavits of service attesting to the above.

Defendant Squirewell was served in accordance with New York law and is currently in default, his time to answer or respond to the complaint having elapsed on September 20, 2024. Counsel for the City has informed us that the City has no other addresses for Defendant Squirewell, who is no longer employed by the City.

Plaintiff respectfully requests that the Court order the City to provide additional information about Defendant Squirewell to facilitate a final attempt to find Defendant Squirewell and personally serve him with the summons and complaint. Specifically, Plaintiff asks that the Court order the City to provide Plaintiff with Defendant Squirewell's date of birth and social security number pursuant to the protective order in this case (ECF No. 63). Plaintiff respectfully requests 30 days to make this final attempt at in person service and will provide the Court with an update on efforts to locate Defendant Squirewell at the end of that period, including whether Plaintiff intends to move for a default judgment at that time.

The City opposes Plaintiff's request and takes the position that the customary protocol of providing Defendant Squirewell's last known address has been complied with and fulfills any City duty to Plaintiff regarding former employees.

We thank the Court for its consideration.

Respectfully submitted,

/s/

Emily K. Wanger

c. All counsel of record, *via ECF*

*The City shall provide the plaintiff with the defendant's date of birth. A status report on service is due 11/22/24.*

*Nemine Lake*  
*10/25/24*